

Dear Judge Bianco,

Your Honor, with the supplemental additions of Rizzi and Hughes -- who are two men I never met in my life or spoke to one-on-one -- this restitution (et.al.) process has gone from the absurd to the downright outrageous.

I was found not guilty with the Privitello charges -- but I never engaged with him -- and the multitude of emails in evidence (and those not in evidence) confirm it. In addition -- after being pressed for the details of his investment -- Privitello testified that he was called by his best friend -- John Kaiser -- from Constantine's office to solicit him; not with Kenner, ever. In fact -- Kaiser began soliciting his friends and family after the documented date I, Kenner, cut off communications with Constantine over the disappointments in the GSF results (which Constantine 100% controlled -- per Attorney Richards testimony, TR.3805-16). Just because Privitello heard about a fictitious "cabana party" that the government had to remind him to remember organically -- two times -- before he remembered Kenner's alleged monumental influence, it highlights the pattern of incremental, suborned perjury. Perhaps, that conversation about the "cabana party" took place with Privitello while he was vacationing with Kenner "in a cave" when Kenner called Kristen Peca? Hard to say -- because the absurdity of every statement coupled with impossible -- not improbable -- temporal anomalies continue like scripture.

In December 2009 -- Kaiser was so embarrassed by Kenner after he confessed to the December 2009 Privitello investment with Constantine -- after the date Kenner informed Kaiser that Kenner was about to sue Constantine over the believed misappropriations of the GSF and the non-payment of the \$1 million-plus personal loans Constantine had not repaid to Kenner (not Kaiser). True to government/Kaiser conspiratorial form -- those loans somehow, perhaps vis-a-vis magic -- became Kaiser's "grocery list" money (named by AUSA Miskiewicz) -- like Kenner's Mexico house, the \$1,176,000 of "back pay" and "expenses" (Tr.1413-14 -- lied to cover the funds received by Kaiser and re-paid to his friends and family), the Sag Harbor land he and Berard stole (aka -- criminal) with a documented forged and fabricated operating agreement (in the government's possession [BINDER-00000450, 452] and specific production to Kenner pre-trial. Berard testified that he and Kaiser stole the Sag Harbor/ledbetter property, sold it, and kept 50-50% proceeds (aka - criminal), but again, somehow Berard is a victim of the "bank robbery" he and Kaiser did and confessed to in a federal courthouse. It's a double-standard at a minimum -- or 7th floor favoritism to save their proverbial arses (and those who are clearly complicit).

The court should recall the government claimed Kaiser's \$200,000 was a third Eufora investment tranche during the last hearing, but there is no bank record that would verify this on planet earth. Yet -- this is probably the same disingenuous standard that supports Kaiser gave the Hawaii project over \$600,000 for expenses (also undocumented on any credit card, bank record, or bubble-gum wrapper) that is the government substantiated "expenses". This is relevant -- not to mention a 3rd grader would see thru the graft -- because this allegation of unpaid 2005 "investment" or "loan" (the story changes based on the fabricated testimony du jour or documentation Kaiser submits to this court -- another criminal act) from Kaiser's friends and family (without \$180,000 traced to him as he also lied to the court during testimony) -- as the foundation for the Kaiser (ECF 1070-2) 3rd party ancillary claim for Cabo San Lucas equity. This alleged agreement that Kaiser supports as authentic (ironically produced with Jowdy's signature on it after Kenner's detention) suggests Kenner gave Kaiser \$150 million of collateral in 2006 for the \$1 million "investment"/"loan" (perhaps the second-best deal in history of America --

behind the \$21 acquisition of Long Island from the native-Americans). According to Justice Sotomayor in her Supreme Court "Roberts" decision, Kaiser (like the Nolan settlement agreement) took it upon themselves to hold the equity instead of sell collateral which breaks the proximate cause of any non-recovery. Note that both Kaiser and Nolan have been Jowdy sycophants for over a decade and could have resolved any shortfall for the outrageous settlement equity in their possession. They chose not to.

Well -- the Hughes/Rizzi/Ethel Kaiser decisions (once their investments came to light in the summer of 2010 -- 7 months after Kaiser solicited them) were disconnected from Kenner in any documented reality when they occurred. They were nothing more than Kaiser running around aimlessly to cut deals while trying to recover the millions he stole from all of these people as his 2011 text to Kenner confessed months before he took his job with Jowdy in Mexico (previously submitted to the court). It proved -- again -- Kaiser lied about selling his home and repaying his friends and family in 2005. Furthermore -- when the negotiations and litigation began thru Eufora investors' attorney, Michael Stolper, they (absent Kenner) all decided not to take Constantine's offer of repayment -- in lieu of their perceived leverage to buy out the Eufora loan debt and control the entire company. This -- again -- was a neither decision influenced by Kaiser to not recover funds while waiting for a larger payday. Kenner neither influenced their purchase -- nor their decision to not recover the funds when offered in 2010.

The evidence in front of the court has shown Kaiser to be the single largest influencer for no one to recover their funds from Constantine's issues and Jowdy's crimes. One -- Kaiser told the court that he stopped DeVries, Berard, Woolley and others from accepting 50 cents on the dollar from Constantine (for their Eufora investments) -- because according to Kaiser's testimony, Eufora was about to be big. Somehow -- it is now a worthless scheme. Kenner had no influence on that decision. Two -- Kaiser explained to the court (ecf 628) that he told the government that the \$10 million buyout by Silverpeak for 50% of the Diamante equity was a bad deal, and the Jowdy-victims from 15 years of graft (with Lehman/Bhatti of Silverpeak & and the Danske budget looting) did not recover the funds in front of them. Kenner had no influence on that. Third -- as Hawaii attorney Madia recapped for the Hawaii Mexico investors in 2007 (read into the sentencing day transcripts) that Kaiser and Constantine were begging Kenner not to sue Jowdy for the non-payment of the loans -- and instead they (Kaiser and Constantine) wanted to negotiate with Jowdy. On this amazing temporal timeline -- Constantine was negotiating (and known to the investors) since 2006 with Jowdy -- yet Kaiser and Manfredi (the two Hawaii management team members) were unaware of anything Constantine was doing related to the Hawaii project (notwithstanding his \$3.5 million loan -- and Kaiser and Manfredi's 2010 FBI proffer confirms that they were actually aware of the Constantine funding work).

Ultimately -- Kaiser's influences on his friends and family to not recover the Eufora money -- coupled with the government cover-up of all the full-repayment money he received from the Hawaii and California projects (zero owed) -- coupled with the sag harbor and Arizona properties Kaiser and Berard stole from Kenner (as criminally documented) -- coupled with the other money Kaiser stole from his friends and family (and admitted to the FBI in 2010 proffer (3500-JK-1-r at 7) begs the question.....

Is the restitution an extension of helping Kaiser cover-up all of the crimes he and Jowdy (with Berard's assistance) perpetrated on their friends and investors? Is it a pay-back from the 7th floor for the outrageous testimony and influence on others testimony (as Kristen Peca's 2012-FBI recordings prove) for getting rid of Kenner? Note that at the time of Kenner's arrest -- Kenner was suing Jowdy (personally and for the investors), suing Kaiser and Berard for the criminal thefts of sag harbor and the Arizona renovation project properties (totaling millions of dollars), notified the Pecas that he was about to sue them for the Las Vegas theft of property from Kenner (totaling over \$750,000 -- juxtaposed as Kenner defaulting despite the actual parties-agreement in Rule 16 production confirming Peca's breach). Ulterior motives have been the theme of the case -- and now the Kaiser cover-ups become complete with the double-counted December 2009 Kaiser-solicited Hughes/Rizzi/Ethel Kaiser transactions.

Kenner wants the Court to know, Kenner objects -- but with empirical evidence; not the garbage he-said-she-said government-witness fabrications. In fact -- the empirical evidence Kenner has presented thru testimony and submissions to this court are not "ridiculous"; they are 100% of the time based on the government-witness's prior statements, signed documents, emails they initiated, emails from their-own third-party attorneys, text admissions/confirmations initiated by them -- NEVER because Kenner said it.

Respectfully submitted (with empirical evidence available for all of these statements -- upon request of the court to expose more government lies).

Phil Kenner